

² The Board notes that appellant submitted additional evidence on appeal. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of the final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

ISSUE

The issue is whether OWCP properly suspended appellant's wage-loss compensation benefits, effective March 4, 2018, for failure to complete an EN1032 form as requested.

FACTUAL HISTORY

On June 10, 2004 appellant, then a 77-year-old teacher, filed a traumatic injury claim (Form CA-1) alleging that she injured her lower back and right hip because inmates had tampered with the height of her desk chair, which caused her to fall onto her chair while in the performance of duty. OWCP accepted that appellant sustained a work-related lumbar strain and paid her wage-loss compensation on the periodic rolls as of September 24, 2004.

By a January 12, 2018 Form CA-1032, dated January 12, 2018, OWCP informed appellant that federal regulations required her to attest to any earnings or employment during the previous 15 months. It notified appellant that she was required to fully answer all questions on the enclosed EN1032 form and return it within 30 days or her benefits would be suspended. The letter was mailed to appellant's address of record. However, no response was received by OWCP.

By decision dated February 27, 2018, OWCP suspended appellant's compensation benefits, effective March 4, 2018, for failing to complete the EN1032 form as requested. It noted that, if she completed and returned an enclosed copy of the form, her compensation benefits would be restored retroactively to the date they were suspended.

LEGAL PRECEDENT

Section 8106(b) of FECA authorizes the Secretary of Labor to require a partially disabled employee to report his or her earnings from employment or self-employment, by affidavit or otherwise, in the manner and at the times the Secretary specifies.³

Under section 10.528 of OWCP's implementing federal regulations, an employee in receipt of compensation benefits must complete an affidavit as to any work or activity indicating an ability to work, which the employee has performed for the prior 15 months.⁴ If an employee who is required to file such a report fails to do so within 30 days of the date of the request, his or her right to compensation for wage loss is suspended until OWCP receives the requested report. At that time, OWCP will reinstate compensation retroactive to the date of suspension if the employee remains entitled to compensation.⁵

³ 5 U.S.C. § 8106(b).

⁴ 20 C.F.R. § 10.528. *See also* C.C., Docket No. 17-0043 (issued June 15, 2018); A.H., Docket No. 15-0241 (issued April 3, 2015).

⁵ *Id.*; *see also* 20 C.F.R. § 10.525.

ANALYSIS

The Board finds that OWCP properly suspended appellant's wage-loss compensation benefits, effective March 4, 2018, for failure to complete an EN1032 form.

On January 12, 2018 OWCP provided appellant with an EN1032 form. It notified her that federal regulations required her to complete the form and answer all questions concerning her employment or earnings for the prior 15 months. OWCP properly notified her that, if she did not completely answer all of the questions and return the statement within 30 days, her benefits would be suspended. The record reflects that OWCP's letter was properly sent to appellant's address of record and there is no indication that it was returned as undeliverable.⁶ Under the mailbox rule, a document mailed in the ordinary course of the sender's business practices to the addressee's last known address is presumed to be received by the addressee.

The record indicates that appellant failed to timely submit the EN1032 form within 30 days.⁷ Appellant was receiving wage-loss compensation and she was therefore required to complete the EN1032 form. Her failure to file an EN1032 form within 30 days resulted in the suspension of compensation until OWCP received the completed form. Thus, the Board finds that OWCP properly suspended appellant's compensation benefits, effective March 4, 2018, pursuant to 20 C.F.R. § 10.528.

CONCLUSION

The Board finds that OWCP properly suspended appellant's compensation benefits, effective March 4, 2018, for failure to complete an EN1032 form as requested.

⁶ See *C.C.*, *supra* note 4; *Kenneth E. Harris*, 54 ECAB 502, 505 (2003); *J.J.*, Docket No. 13-1067 (issued September 20, 2013).

⁷ *C.C.*, *supra* note 4; *I.S.*, Docket No. 15-0800 (issued July 7, 2015).

ORDER

IT IS HEREBY ORDERED THAT the February 27, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 28, 2018
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board